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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOONSUK KIM,

Plaintiff,

v.

ASIANA AIRLINES, INC., a corporation;
and THE BOEING COMPANY, a
corporation,

Defendants.

Case No.

COMPLAINT FOR DAMAGES FOR:

- 1. NEGLIGENCE**
(ASIANA AIRLINES)
- 2. PASSENGER LIABILITY**
(ASIANA AIRLINES)
- 3. NEGLIGENCE**
(THE BOEING COMPANY)
- 4. BREACH OF WARRANTY**
(THE BOEING COMPANY)
- 5. STRICT LIABILITY**
(THE BOEING COMPANY)

DEMAND FOR JURY TRIAL

Plaintiff JOONSUK KIM, (individually, "Plaintiff"), through his undersigned attorneys, brings this action against the Defendants ASIANA AIRLINES, INC. (hereinafter "ASIANA") and THE BOEING COMPANY (hereinafter "BOEING"), as follows:

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JURISDICTION

1
2 1. This Court has jurisdiction under 28 U.S.C. § 1331(a), pursuant to Article 33 of
3 the Convention for the Unification of Certain Rules for International Carriage by Air (hereinafter
4 the “Montreal Convention”), which both the United States and the Republic of Korea have
5 ratified. As a party to the International Air Carrier Transport Association Inter-carrier Agreement
6 on Passenger Liability, which specifically removes limitations on damages, Defendant ASIANA
7 is a signatory to the Montreal Convention. Under Article 33 sections (1) and (2) of the Montreal
8 Convention, passenger Plaintiff purchased his ticket for the subject flight in the Northern District
9 of California.

10 2. This Court has jurisdiction under 28 U.S.C. § 1332. The principal and permanent
11 residence of Plaintiff is in this District. Defendants ASIANA and BOEING maintain corporate
12 offices in Republic of Korea, in Illinois, and in California in this district. The amount in
13 controversy exceeds the \$75,000 jurisdictional minimum of this Court. The ultimate destination
14 in the contract of carriage of Plaintiff was San Francisco International Airport (hereinafter
15 “SFO”), located in this District. ASIANA routinely operates services for the carriage of
16 passengers by air to SFO. Defendants have sufficient minimum contacts necessary to subject
17 them to personal jurisdiction in this Court because ASIANA and BOEING both maintain places
18 of business and conduct business in California.

VENUE

19
20 3. Venue in the Northern District of California is proper pursuant to 28 U.S.C. § 1391
21 and Local Rule 3-2 because the crash itself and a substantial portion of the events and omissions
22 giving rise to the claims alleged herein occurred in this District. Further, Plaintiff’s principal and
23 permanent place of residence is in the Northern District of California, and Defendants both
24 maintain business contacts and commerce in California sufficient for personal jurisdiction.

PARTIES

25
26 4. Plaintiff JOONSUK KIM is a resident of the United States and of California, and
27 maintains his principal residence in this District.
28

7 7. ASIANA entered into the contract of carriage with Plaintiff and at all material
8 times was in control of, and responsible for, their safe transport to San Francisco, California.

3 9. BOEING manufactured and sold the subject aircraft to ASIANA, and contracted
4 with ASIANA to train its pilots, including those on board Flight 214 on July 6, 2013.

21 **FACTUAL BACKGROUND**

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12. Plaintiff was among the passengers on board the Subject Aircraft.

13. ASIANA Flight 214 was carrying 291 passengers and 16 crew members when it crashed on July 6, 2013 into the sea wall at SFO. The flight had originated in Shanghai and stopped in Seoul before heading to the United States. The plane was instructed to land on SFO Runway 28L. The SFO air traffic controller gave landing clearance.



Figure 1: Subject Aircraft Landing at Hong Kong International Airport¹

14. The ASIANA Crash occurred at SFO at approximately 11:26 a.m. local time on July 6, 2013, when the Subject Aircraft landed short of Runway 28L's threshold at SFO. The plane came into SFO too low and too slow, colliding with the seawall that projects into San Francisco Bay. The landing gear and the tail section struck the seawall, both separating from the plane. In addition, both engines, the vertical stabilizer and both horizontal stabilizers separated from the aircraft as it spun and slid approximately 2,400 feet from the initial point of impact at the sea wall.

¹Credit: <http://www.flickr.com/photos/46423105@N03/6052589349/> and http://en.wikipedia.org/wiki/File:Asiana_Airlines_Boeing_777-200ER;_HL7742@HKG;31.07.2011_614fz_%286052589349%29.jpg

1 15. The crash caused passengers, including Plaintiff, to be violently thrown about the
2 cabin. Luggage toppled from the overhead compartments. Passengers, held in place by lap-only
3 seatbelts, jolted in all directions, many slamming their heads against seat backs and armrests.
4 Seats were dislodged throughout the cabin. Oil spewed from the wrecked aircraft.

5 16. Federal Aviation Administration (“FAA”) regulations require that all planes must
6 be manufactured to allow for a complete evacuation within 90 seconds after an emergency stop.
7 Despite this regulation and policy, passengers and crew waited approximately ninety seconds
8 after the aircraft had come to a full stop for the emergency doors and chutes to open, and for the
9 pilots to authorize evacuation. The plane caught fire and was left a charred wreck. The rear of
10 the plane had separated and half of the roof was ripped open. On information and belief, at least
11 180 passengers have suffered physical injuries, and further resulted in the deaths of three teenage
12 female passengers.

13 17. The National Transportation Safety Board (hereinafter “NTSB”) closed the on-
14 scene investigation of the crash on July 16, 2013. It sent the cockpit voice recorder and the flight
15 data recorder to Washington, D.C., where a preliminary review of the instruments was completed.
16 Plaintiff is informed, believes and thereon alleges that the pilots did not discuss the approach
17 speed until nine seconds before the crash, and that one of the pilots made an internal call to abort
18 the landing about three second before the crash.

19 18. Plaintiff is informed, believes and thereon alleges the following: the pilots
20 reportedly sought to apply thrust and abort the landing too late for any possible recovery; the
21 landing speed was significantly below 137 knots, the minimum speed necessary for a safe
22 landing, according to published reports, and came in far too slowly to land safely; the plane was
23 reportedly flying at least 39 miles per hour below its target speed of 158 miles per hour; and a
24 stall warning sounded on Flight 214 just four seconds before impact.

25 19. Plaintiff is informed, believes and thereon alleges that the probable flight path of
26 the Subject Aircraft, from 400 feet AGL to point of rest, is depicted in Figure 2 below.
27
28

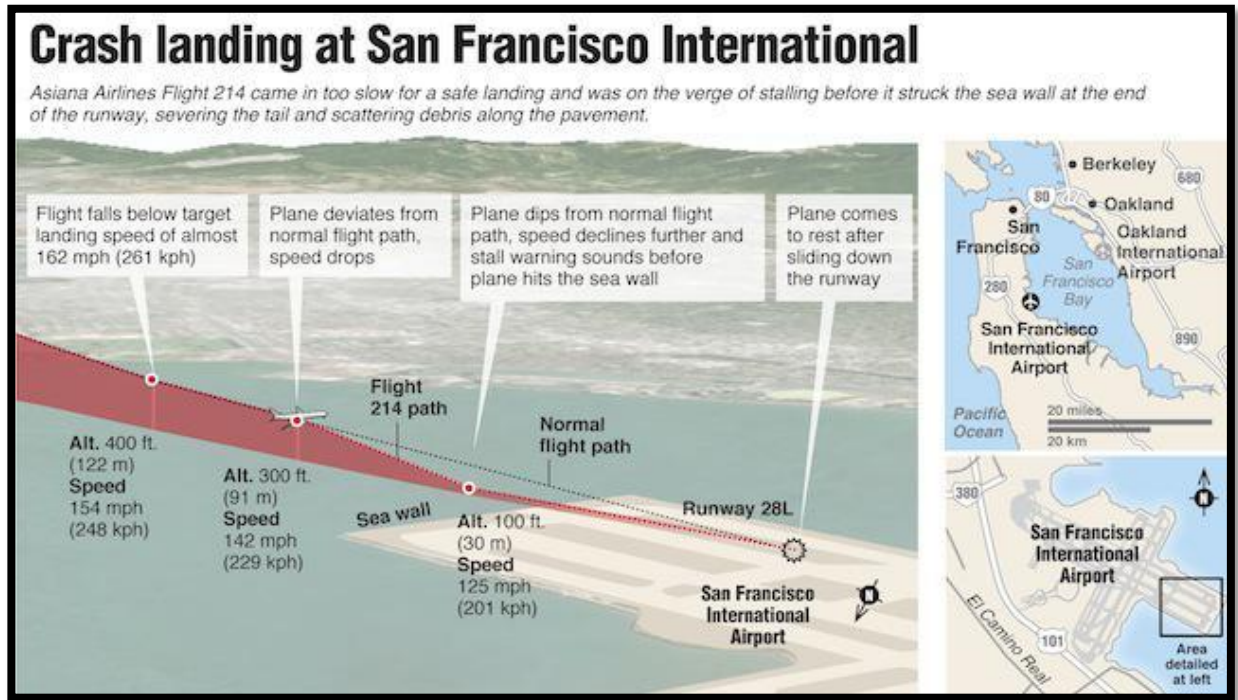


Figure 2: Flight Path of Subject Aircraft²

20. Plaintiff is informed, believes and thereon alleges the following: the flight recorder data reportedly also showed that the wing flaps were responding as normal; a preliminary review of the engines reportedly showed that both were producing power at the time of impact; and the pilots were not tested for drugs or alcohol because ASIANA prohibited such testing.

21. Plaintiff is informed, believes and thereon alleges the following: statements by the ASIANA Flight 214 pilots in reported interviews with the NTSB after the accident raise major concerns about a shocking lack of pilot training and ability; the pilots reportedly said they thought the aircraft's auto-throttle system, a type of cruise control for jetliners, was maintaining adequate speed, impliedly admitting that they had relied on the automated system and failed to monitor air speed as they should continuously have done every few seconds; and the Flight 214 pilots lacked practice and ability in landing a Boeing 777 by visual flight rules.

22. Plaintiff is informed, believes and thereon alleges the following: among a number of serious errors and omissions, the ASIANA Flight 214 flight crew failed to observe basic procedures for a visual landing approach into SFO; failed to appropriately monitor flight

² Los Angeles Times / MCT 2013

1 conditions on approach; failed to appropriately communicate and react in the cockpit to
2 deteriorating flight conditions; and failed to quickly and safely evacuate all those aboard upon the
3 crash.

4 23. Plaintiff is informed, believes and thereon alleges that BOEING undertook to train
5 ASIANA pilots including the Flight 214 crew, but did not meet its commitment to adequately
6 train said pilots, nor did BOEING ensure that the Subject Aircraft was safely and adequately
7 equipped.

8 24. Plaintiff is informed, believes and thereon alleges the following: the pilots and
9 flight crew's failure to comply with rudimentary cockpit resource, flight and landing management
10 safety protocols turned what should have been a routine landing into a catastrophe; that the
11 ASIANA Crash occurred due to the gross negligence and recklessness of both Defendants
12 ASIANA and BOEING, in violation of numerous international and United States airline industry
13 standards and established flight rules; and that BOEING and ASIANA both failed to adequately
14 train and supervise Asiana's pilots to ensure passengers' safety.

15 25. Plaintiff is informed, believes and thereon alleges that in 2002, BOEING
16 contracted with ASIANA to train all of ASIANA's pilots at its own training facilities and that in
17 2006, when ASIANA purchased the Subject Aircraft, BOEING opened a BOEING 777 training
18 facility in South Korea near the Gimpo International Airport.

19 26. Plaintiff is informed, believes and thereon alleges that BOEING and ASIANA
20 knew or should have known that their training procedures fell below the standard of care, and
21 were putting passengers' lives at risk; that at the simulator training at BOEING training facilities,
22 ASIANA requires completion of an Initial Operating Experience for pilots new to a certain type
23 of aircraft.; that such pilots must complete twenty flights with sixty hours of flight time under the
24 supervision of an experienced supervising pilot; and that this program calls for significantly less
25 flying hours than what international standards deem appropriate to qualify pilots as sufficiently
26 experienced.

27 27. Plaintiff is informed, believes and thereon alleges that Pilot Lee Kang-guk was still
28 in training to fly the BOEING 777, and Flight 214 was his first flight to SFO on this type of

1 plane; that he had experienced only forty-three previous hours at the controls of any 777; and that
2 seated next to him on Flight 214 was a supervising pilot with whom he had never flown and who
3 had never before served as a supervising pilot.

4 28. On information and belief, ASIANA Airlines has an unusually high rate of aborted
5 landings at SFO; ASIANA's number of aborted landings, or "go-arounds," is six to eight times
6 greater than would be expected given the airline's total number of flights into SFO; and the pilots
7 on the ASIANA flight that crashed on July 6 called for a "go-around" seconds before the Boeing
8 777 slammed into the seawall.

9 29. Upon information and belief, after the crash, airline industry officials reportedly
10 went through six weeks of records and found a "considerably higher" number of aborted landings
11 by ASIANA than would be expected; the South Korean airline reportedly accounts for only about
12 0.5 percent of SFO's six hundred daily landings though its percentage of go-arounds is reportedly
13 well above that. One such aborted landing reportedly happened on July 19, 2013, just days after
14 SFO reopened the runway where Flight 214 had crashed. The ASIANA jet pulled out of its early-
15 afternoon landing just 14 seconds from touchdown.

16 30. The ASIANA Crash occurred when the aircraft's speed dropped below the
17 minimum speed necessary to safely approach the runway. The pilots had set the airspeed at the
18 required level of 137 knots, and assumed the auto-throttle control system would maintain this
19 speed. They became aware of the plane's actual speed only seconds before the crash because
20 they had been focused on aligning the aircraft to center on Runway 28L, and did not realize that
21 the auto-throttle control system was not engaged.

22 31. On or about October 6, 2013, Chairman Hersman provided a briefing wherein she
23 stated that one of the three pilots in the Subject Aircraft cockpit told investigators that he thought
24 the plane's automatic throttle was maintaining speed as the plane descended to land, but later
25 discovered it wasn't sending power to the engine.



Figure 3: Figure Aircraft at Rest Post Crash ³

32. Plaintiff is informed, believes and thereon alleges that BOEING knew or should have known that the design of its auto-throttle control systems, auto-pilot control systems, and/or low airspeed warning systems, their improper installation, and/or their defects, would result in dangerously inadequate warning to pilots about low airspeed, a common cause of plane crashes.

33. Plaintiff is informed, believes and thereon alleges that BOEING was aware that its low airspeed warning system was inadequate; that the BOEING 777 has a warning system which sounds a standard warning tone followed by a message on a display screen with the text "AIRSPEED LOW," yet this same screen displays several other notifications at any given time; and that during landing, pilots are routinely paying attention to numerous indicators and instructions simultaneously, as was the case on Flight 214.

³ Courtesy: <https://www.metabunk.org/threads/hl7742-aar214-777-crash-korean-asiana-airlines-san-francisco.1956/>

1 34. Plaintiff is informed, believes and thereon alleges that BOEING has in recent years
2 retrofitted four hundred of the almost four thousand 737 planes in existence with a warning
3 system that features a repeated aural command of "LOW AIRSPEED"; that this was in response
4 to the 2009 Turkish Airlines Flight 1951 crash of a BOEING 737, after which the Dutch Safety
5 Board recommended that BOEING evaluate its warning systems; that the NTSB has encouraged
6 the FAA to require aural warning systems, and Airbus SAS, BOEING's chief competitor, has
7 installed an aural warning system on all of its A320 line aircraft since 1995; and that despite this
8 knowledge, BOEING has not installed such systems in its 777 aircraft.

9 35. Vehicle manufacturers, including airplane manufacturers, have known for decades
10 the importance of restraining occupants in order to prevent and/or minimize occupant injuries in
11 the event of a collision, crash or accident. Automobile manufacturers long ago moved to include
12 three point harnesses and airbags in their vehicles in order to protect occupants.

13 36. Shoulder harnesses are likewise common throughout the aviation industry. All
14 seats in general aviation aircraft are required to have shoulder harnesses. Federal regulations,
15 including 14 C.F.R. § 91.521, require all flight crew stations (e.g. pilots and flight attendants) to
16 have a restraint system consisting of safety belt and shoulder harness combinations. Many first
17 class cabins and private jets already have the lap belt and shoulder harness combination.

18 37. The Boeing Company and Asiana each failed to timely adopt three point harnesses
19 in its passenger planes, including the plane involved in the Asiana 214 crash, and should have
20 adopted them years ago, including in the aircraft that crashed in this case. Plaintiff is informed
21 and believes that three point harnesses would have prevented or mitigated many of the passenger
22 injuries in the Asiana 214 crash, including injuries to Plaintiff herein.

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Figures 4 and 5: Photos of Seats on Subject Aircraft Post Crash⁴

38. Plaintiff is informed, believes and thereon alleges that moments after the crash, the pilots delayed flight attendants from evacuating the plane while they talked to the SFO tower.

⁴ Courtesy: NTSB and Reuters and <http://www.nydailynews.com/news/national/asiana-flight-214-pilots-realized-seconds-crash-approach-slow-article-1.1392535>

1 Passengers were instructed to remain in their seats amidst the wreckage. Only when a flight
2 attendant notified the pilots that she saw smoke and fire outside did they order evacuation.

3 39. Plaintiff is informed and believes that the emergency exits did not open until
4 approximately ninety seconds after the plane had ceased moving, despite FAA policy that
5 planes must be manufactured such that all passengers may evacuate within ninety seconds.
6 Further complicating the perilous evacuation process were two evacuation slides that had
7 opened inside the plane during the crash. While normally designed to open outside a plane
8 when put into an engaged position, these slides opened without command and blocked
9 passengers and crew from exiting the smoldering plane.

10 40. Defendants', and each of their, acts, omissions and failures constituted gross,
11 wanton, and willful disregard for the rights and safety of all passengers aboard Flight 214 and
12 needlessly caused injuries, damages, and deaths to innocent passengers.

13 41. As a direct and proximate result of the acts, omissions and failures of defendants,
14 and each of them, Plaintiff has suffered, and continues to suffer, from economic losses and
15 physical injuries, as well as mental and emotional injuries arising therefrom, all of which have
16 caused Plaintiff physical, mental, emotional and nervous pain and suffering, all to his general
17 damages in an amount in excess of the minimum jurisdiction of the court to be proven at the time
18 of trial.

19 42. As a direct and proximate result of the acts, omissions and failures of defendants,
20 and each of them, Plaintiff was compelled to and did incur expenses for medical care,
21 hospitalization, rehabilitation, care costs, and other incidental expenses, and will have to incur
22 additional like expenses in the future, all to Plaintiff's damages in an amount to be determined
23 according to proof at the time of trial.

24 43. As a direct and proximate result of the acts, omissions and failures of defendants,
25 and each of them, Plaintiff has suffered loss of income, and / or a loss of earning capacity in an
26 amount to be determined according to proof at the time of trial.

27 44. As a further direct and proximate result of the acts, omissions and failures of
28 defendants, and each of them, Plaintiff has suffered the loss of their personal property, including

1 but not limited to luggage and carry on items and the personal effects contained therein, in an
2 amount to be determined according to proof at the time of trial.

3 **FIRST CLAIM FOR RELIEF**

4 **NEGLIGENCE**

5 **(Against Defendant ASIANA AIRLINES, INC.)**

6 45. Plaintiff incorporates by reference each and every prior and subsequent allegation
7 as though fully set forth herein.

8 46. At all times relevant, ASIANA was a common carrier engaged in the business of
9 providing air transportation for fare-paying passengers on international flights to the United
10 States. ASIANA, as a common carrier, owed the passengers of Flight 214, including Plaintiff, a
11 duty of utmost care and the vigilance for the safe transport of passengers.

12 47. Pursuant to Part 121 of the Federal Aviation Regulations [14 C.F.R. 121.1 et seq.],
13 ASIANA held and Air Carrier Operating Certificate that authorized it to serve as a common
14 carrier in air transportation in the United States. As such, ASIANA owed a duty of care to its
15 passengers, including Plaintiff, consistent with the requirement that it maintain and operate its
16 aircraft in the safest manner possible.

17 48. ASIANA's common law duty also required it to maintain and operate it aircraft,
18 including the Subject Aircraft, to the highest degree of safety and care.

19 49. At all times herein ASIANA negligently, carelessly, and recklessly, breached its
20 duty of care to passengers of Flight 214, including Plaintiff, by failing to safely maintain, operate,
21 maneuver, handle, control, equip, manage and/or pilot Flight 214 and/or failing to properly and
22 safely train, teach, educate, prepare, inform, alert, guide or tutor its pilots, crew and other
23 personnel to operate a passenger aircraft and by failing to timely and safely respond during
24 emergency situations, including the one experienced by Flight 214.

25 50. As a direct and proximate result of Defendant ASIANA's acts and omissions,
26 including gross negligence and recklessness of the flight crew on Flight 214 and the inadequate
27 training and supervision Defendants provided to said crew, which caused the ASIANA Crash,
28

1 Plaintiff was seriously injured and damaged as alleged herein and will continue to suffer from his
2 physical, mental, and economic injuries for the foreseeable future.

3 **SECOND CLAIM FOR RELIEF**

4 **NEGLIGENCE**

5 **(Against Defendant ASIANA AIRLINES, INC., Pursuant to the Montreal Convention)**

6 51. Plaintiff incorporates by reference each and every prior and subsequent allegation
7 as though fully set forth herein.

8 52. On November 4, 2003, the United States signed, ratified and adopted as law the
9 Montreal Convention, a multilateral international treaty which supplies rules governing
10 international carriage by air. Because the transportation provided to Plaintiff was between points
11 in two different nations and because both these nations are signatories to the Montreal
12 Convention, the transportation was international carriage as defined by Article 1(2) of the
13 Convention, and the Convention is therefore applicable to this action pursuant to Article 1(1).

14 53. Pursuant to Article 17 of the Montreal Convention, the carrier is liable for damage
15 sustained in case of death or bodily injury of a passenger upon condition only that the accident
16 which caused the death or injury took place on board the aircraft or in the course of any of the
17 operations of embarking or disembarking.

18 54. The injuries Plaintiff suffered took place on board the Subject Aircraft.

19 55. Pursuant to Article 17 of the Montreal Convention, Defendant ASIANA is liable
20 for damages sustained by Plaintiff as a passenger aboard Flight 214, as said injuries and damages
21 occurred while he was on board the Subject Aircraft and/or in the course of the operations of
22 disembarking from the Subject Aircraft.

23 56. Defendant ASIANA is also liable for other damages suffered by JOONSUK KIM
24 in that said claims derive from damages suffered by passenger plaintiffs and are cognizable under
25 California law.

26 57. Defendant ASIANA was in control of Flight 214 and owed non-delegable duties to
27 all passengers for its safe operation at all modes of flight, including the landing approach into
28 SFO on July 6, 2013.

58. Defendant ASIANA breached those duties by failing to observe the most fundamental procedures for a visual landing approach into SFO, failing to appropriately monitor flight conditions on approach, failing to communicate and react in the cockpit to those flight conditions, and failing to evacuate passengers and crew as safely and quickly as possible.

59. ASIANA's liability under the Montreal Convention is absolute up to 113,100 Special Drawing Rights (SDR) pursuant to Article 21(1).

60. ASIANA is further liable to Plaintiff under Article 21(2) of the Montreal Convention for all personal injury damages exceeding 113,100 SDR unless it proves that (a) Plaintiff's injuries were not due to the negligence or other wrongful act or omission of ASIANA or its servants or agents; or (b) the injuries were solely due to the negligence or other wrongful act or omission of a third party.

61. As a direct and proximate result of Defendant ASIANA's acts and omissions, including gross negligence and recklessness of the flight crew on Flight 214 and the inadequate training and supervision Defendants provided to said crew, which caused the ASIANA Crash, Plaintiff was seriously injured and damaged as alleged herein and will continue to suffer from his physical, mental, and economic injuries for the foreseeable future.

62. The ASIANA Crash occurred due to the negligence, wrongful acts and omissions of Defendants ASIANA and BOEING and their servants and agents, and each of them, and not due to the sole negligence or other wrongful act or omission of any third party.

THIRD CLAIM FOR RELIEF

NEGLIGENCE

(Against Defendant THE BOEING COMPANY)

63. Plaintiff incorporates by reference each and every prior and subsequent allegation as though fully set forth herein.

64. At all relevant times herein, Defendant BOEING was the designer, manufacturer, warranter, promoter, and seller of the BOEING 777-200ER aircraft. It maintained the responsibility of testing and inspecting such aircraft, including the Subject Aircraft, to ensure suitability for passenger air transport. BOEING knew or should have known that its auto-throttle

1 control and low airspeed warning systems were not adequate to ensure safe and effective air
2 operations.

3 65. At all relevant times herein, BOEING oversaw, managed and conducted the
4 training protocols and training facilities which trained ASIANA's pilots. BOEING knew or
5 should have known that ASIANA pilots were not adequately trained in basic landing and safety
6 management protocols, and that pilots of the Subject Aircraft were not qualified or trained to
7 safely operate Flight 214 on July 6, 2013.

8 66. At all relevant times herein, BOEING knew or should have known that passenger
9 seats with the use of lap only belts instead of three point harnesses (lap belts and shoulder
10 harnesses) would cause or contribute to otherwise avoidable injuries because a three point harness
11 is many times safer at containing passengers and preventing serious injuries than is a lap belt
12 alone. Only a few business class seats on the plane had passenger restraints that included
13 chest/torso restraints.

14 67. The ASIANA Crash and/or crash injuries were the result of BOEING's
15 recklessness, gross negligence, carelessness, and negligence, as well as its other wrongful acts
16 and omissions as set forth herein. As a direct and proximate result of BOEING's acts and
17 omissions, Plaintiff was seriously injured and damaged as alleged herein and will continue to
18 suffer from their physical, mental, and economic injuries for the foreseeable future.

19 **FOURTH CLAIM FOR RELIEF**

20 **BREACH OF WARRANTY**

21 **(Against Defendant THE BOEING COMPANY)**

22 68. Plaintiff incorporates by reference each and every prior and subsequent allegation
23 as though fully set forth herein.

24 69. At all times relevant herein, Defending BOEING represented expressly and/or
25 impliedly that the Subject Aircraft, its parts and components, and its accompanying warnings and
26 instructions, were safe and appropriate for the purpose of commercial passenger air travel, were
27 of merchantable quality, and were free from defects.

70. Plaintiff was an intended third-party beneficiary of BOEING's warranties as a ticketed passenger of ASIANA Flight 214.

71. The ASIANA Crash and injuries and damages suffered by the Plaintiff resulted directly from BOEING's breach of the aforementioned warranties. As a direct and proximate result of BOEING's acts and omissions, Plaintiff was seriously injured and damaged as alleged herein and will continue to suffer from their physical, mental, and economic injuries for the foreseeable future.

FIFTH CLAIM FOR RELIEF

STRICT LIABILITY

(Against Defendant THE BOEING COMPANY)

72. Plaintiff incorporates by reference each and every prior and subsequent allegation as though fully set forth herein.

73. At all times relevant herein, BOEING designed, manufactured, assembled, warranted, promoted, distributed, tested, maintained, serviced, inspected and/or sold BOEING 777-200ER aircraft for the purpose of commercial passenger air transportation.

74. The Subject Aircraft was operated by ASIANA for this intended purpose of commercial passenger air transportation at all relevant times hereinabove set forth. ASIANA used the Subject Aircraft in a manner reasonably foreseeable to BOEING.

75. At all times relevant herein, Subject Aircraft proved to be unsafe, defective, dangerous and not airworthy and/or not crashworthy as a result of BOEING's defective design, manufacture, distribution, testing, assembly, maintenance, service, and/or inspection of the Subject Aircraft.

76. As a direct and proximate result of BOEING's acts and omissions, Plaintiff was seriously injured and damaged as alleged herein and will continue to suffer from his physical, mental, and economic injuries for the foreseeable future.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff, prays for judgment for Plaintiff against Defendants, as follows:

- A. For compensatory and general damages according to proof;
- B. For past and future medical and care expenses and incidental expenses according to proof;
- C. For past and future loss of earnings and earning capacity according to proof;
- D. For loss of personal property and personal effects according to proof;
- E. For punitive damages to ensure that an example is made of defendants, and each of them, to deter similar future conduct;
- F. For any other damages to which Plaintiff may be entitled under applicable law;
- G. For attorneys and expert/consultant fees under applicable law;
- H. Costs incurred in bringing this suit;
- I. For pre- and post-judgment interest on all damages under applicable law; and
- J. Such other and further relief as the Court may deem just and proper.

Dated: November 27, 2013

Respectfully submitted,

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Attorneys for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury for all claims for which a jury trial is available pursuant to Federal Rules of Civil Procedure Sections 38(a) and (b).

Dated: November 27, 2013

Respectfully submitted,

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